

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
First Regular Session  
2003

CHAPTER 218

**HOUSE BILL 2299**

AN ACT

AMENDING SECTIONS 28-3512, 28-3513 AND 28-3514, ARIZONA REVISED STATUTES;  
RELATING TO SUSPENDED DRIVER LICENSE ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3512, Arizona Revised Statutes, is amended to  
3 read:

4 28-3512. Release of vehicle; definition

5 A. An impounding agency shall release a vehicle to the owner before  
6 the end of the thirty day impoundment period under any of the following  
7 circumstances:

8 1. If the vehicle is a stolen vehicle.

9 2. If the vehicle is subject to bailment and is driven by an employee  
10 of a business establishment, including a parking service or repair garage,  
11 who is subject to section 28-3511, subsection A.

12 3. If the owner presents proof satisfactory to the impounding agency  
13 that the owner's driving privilege has been reinstated.

14 4. For the spouse of the owner or any person who is identified as an  
15 owner of the vehicle on the records of the department, if the spouse or  
16 person was not the driver of the vehicle at the time of removal and  
17 impoundment and the spouse or person enters into an agreement with the  
18 impounding agency that stipulates that if the spouse or person allows an  
19 unlicensed driver to drive the spouse's or person's vehicle within five years  
20 ONE YEAR after the agreement is signed, the spouse or person will not be  
21 eligible to obtain release of the spouse's or person's vehicle before the end  
22 of the thirty day impoundment period.

23 B. A vehicle shall not be released pursuant to subsection A of this  
24 section except on order of a JUSTICE court PURSUANT TO SECTION 28-3514 or on  
25 presentation of the owner's or owner's spouse's currently valid driver  
26 license to operate the vehicle and proof of current vehicle registration and,  
27 if the driving privilege of the person driving the vehicle was suspended due  
28 to a previous conviction for driving under the influence pursuant to section  
29 28-1381, subsection K, paragraph 4, section 28-1382 or section 28-1383 and  
30 a certified ignition interlock device was required to be installed on the  
31 vehicle, on presentation of proof of installation of a functioning certified  
32 ignition interlock device in the vehicle. The impounding agency, storage  
33 yard, facility, person or agency having physical possession of the vehicle  
34 shall allow access to the impounded vehicle for the purpose of installing an  
35 A CERTIFIED ignition interlock device. The impounding agency, storage yard,  
36 facility, person or agency having physical possession of the vehicle shall  
37 not charge a fee for providing access to the vehicle or for the installation  
38 of the CERTIFIED ignition interlock device.

39 C. The owner is responsible for paying all towing and storage charges  
40 related to the impoundment of the vehicle and any administrative charges  
41 established pursuant to section 28-3513, unless the vehicle is stolen and the  
42 theft was reported to the appropriate law enforcement agency. If the vehicle  
43 is stolen and the theft was reported to the appropriate law enforcement  
44 agency, then the operator of the vehicle at the time of impoundment is  
45 responsible for all towing, storage and administrative charges.

1       D. The impounding agency shall release a vehicle to a person, other  
2 than the owner, identified on the department's record as having an interest  
3 in the vehicle before the end of the thirty day impoundment period if all of  
4 the following conditions are met:

5       1. The person is a motor vehicle dealer, bank, credit union or  
6 acceptance corporation or any other licensed financial institution legally  
7 operating in this state or is another person who is not the owner and who  
8 holds a security interest in the vehicle.

9       2. The person pays all towing and storage fees related to the  
10 impoundment of the vehicle unless the vehicle is stolen and the theft was  
11 reported to the appropriate law enforcement agency. If the vehicle is stolen  
12 and the theft was reported to the appropriate law enforcement agency, then  
13 the operator of the vehicle at the time of impoundment is responsible for all  
14 towing, storage and administrative charges.

15       3. The person presents foreclosure documents or an affidavit of  
16 repossession of the vehicle.

17       E. Before a person described in subsection D of this section releases  
18 the vehicle, the person may require the owner to pay charges that the person  
19 incurred in connection with obtaining custody of the vehicle, including all  
20 towing and storage charges that are related to the impoundment of the vehicle  
21 and any administrative charges that are established pursuant to section  
22 28-3513.

23       F. A vehicle shall not be released after the end of the thirty day  
24 impoundment period except on presentation of the owner's or owner's agent's  
25 currently valid driver license to operate the vehicle and proof of current  
26 vehicle registration and, if the driving privilege of the person driving the  
27 vehicle was suspended due to a previous conviction for driving under the  
28 influence pursuant to section 28-1381, subsection K, paragraph 4, section  
29 28-1382 or section 28-1383 and an ignition interlock device was required to  
30 be installed on the vehicle, on presentation of proof of installation of a  
31 functioning certified ignition interlock device in the vehicle. The  
32 impounding agency, storage yard, facility, person or agency having physical  
33 possession of the vehicle shall allow access to the impounded vehicle for the  
34 purpose of installing an A CERTIFIED ignition interlock device. The  
35 impounding agency, storage yard, facility, person or agency having physical  
36 possession of the vehicle shall not charge a fee for providing access to the  
37 vehicle or for the installation of the CERTIFIED ignition interlock device.

38       G. The storage charges relating to the impoundment of a vehicle  
39 pursuant to this section shall not exceed five TEN dollars for each day of  
40 storage.

41       H. The impounding agency shall have no lien or possessory interest in  
42 a stolen vehicle if the theft was reported to the appropriate law enforcement  
43 agency. The impounding agency shall release the vehicle to the owner or  
44 person other than the owner as identified in subsection D of this section

1 even if the operator at the time of impoundment has not paid all towing,  
2 storage and administrative fees.

3 I. For the purposes of this section, "certified ignition interlock  
4 device" has the same meaning prescribed in section 28-1301.

5 Sec. 2. Section 28-3513, Arizona Revised Statutes, is amended to read:

6 28-3513. Administrative charges

7 A. The department IMPOUNDING AGENCY shall establish, ~~by rule,~~  
8 procedures for IMPOUNDING AGENCY poststorage hearings, for the release of  
9 properly impounded vehicles and for imposition of a charge equal to the  
10 administrative costs relating to the removal, impoundment, storage or release  
11 of a vehicle. The department IMPOUNDING AGENCY may waive the administrative  
12 charges.

13 B. The administrative charges established pursuant to this section  
14 shall not exceed one hundred fifty dollars.

15 C. The department IMPOUNDING AGENCY shall collect any administrative  
16 charges at the time of the release of the vehicle unless the vehicle is  
17 stolen and the theft was reported to the appropriate law enforcement agency.  
18 If the vehicle is stolen and the theft was reported to the appropriate law  
19 enforcement agency, then the operator of the vehicle at the time of  
20 impoundment is responsible for all towing, storage and administrative  
21 charges.

22 D. The administrative charges established pursuant to this section are  
23 in addition to any other impoundment or storage charges.

24 E. A JUSTICE COURT PROVIDING A POSTSTORAGE HEARING MAY COLLECT A FEE  
25 EQUAL TO THE FEE ESTABLISHED PURSUANT TO SECTION 22-281 FOR A SMALL CLAIMS  
26 ANSWER.

27 Sec. 3. Section 28-3514, Arizona Revised Statutes, is amended to read:

28 28-3514. Hearings; notice of storage

29 A. If a peace officer removes and impounds a vehicle pursuant to  
30 section 28-3511, the department ~~shall~~ IMPOUNDING AGENCY MAY provide the  
31 owner, the spouse of the owner and any other person identified on the  
32 department's record as having an interest in the vehicle with the opportunity  
33 for a poststorage hearing to determine the validity of the storage or  
34 consider any mitigating circumstances relating to the storage or release of  
35 the vehicle before the end of the thirty day impoundment period. IF THE  
36 IMPOUNDING AGENCY PROVIDES THE OPPORTUNITY FOR A POSTSTORAGE HEARING, THE  
37 IMPOUNDING AGENCY SHALL CONDUCT THE HEARING IN ACCORDANCE WITH ANY OF THE  
38 FOLLOWING:

39 1. IN THE IMPOUNDING AGENCY'S JURISDICTION.

40 2. TELEPHONICALLY.

41 3. PURSUANT TO PROCEDURES PRESCRIBED BY THE IMPOUNDING AGENCY TO  
42 TRANSFER THE AUTHORITY TO CONDUCT THE POSTSTORAGE HEARING TO A LAW  
43 ENFORCEMENT AGENCY IN THE JURISDICTION IN WHICH THE OWNER, THE SPOUSE OF THE  
44 OWNER, THE OWNER'S AGENT OR ANY PERSON IDENTIFIED IN THE DEPARTMENT'S RECORD  
45 AS HAVING AN INTEREST IN THE VEHICLE RESIDES.

1           B. IF THE IMPOUNDING AGENCY DOES NOT PROVIDE AN OPPORTUNITY FOR A  
2 POSTSTORAGE HEARING, A JUSTICE COURT SHALL CONDUCT THE POSTSTORAGE HEARING.  
3 IF A POSTSTORAGE HEARING IS CONDUCTED BY A JUSTICE COURT, THE IMPOUNDING  
4 AGENCY SHALL APPEAR AND SHOW EVIDENCE. POSTSTORAGE HEARINGS CONDUCTED BY A  
5 JUSTICE COURT SHALL BE CONSIDERED AS CIVIL FILINGS FOR THE PURPOSES OF  
6 JUDICIAL PRODUCTIVITY CREDITS.

7           B. C. Within two working days after impoundment, the department  
8 IMPOUNDING AGENCY shall send a notice of storage by regular FIRST CLASS mail  
9 to each person, other than the owner, identified on the department's record  
10 as having an interest in the vehicle. Service of notice of storage is  
11 complete on mailing. If the department IMPOUNDING AGENCY fails to notify a  
12 person, other than the owner, identified on the department's record as having  
13 an interest in the vehicle within two working days after impoundment, the  
14 person in possession of the vehicle shall not charge more than fifteen days'  
15 impoundment when the person redeems the impounded vehicle.

16           C. D. Within two working days after impoundment, the impounding  
17 agency shall mail or personally deliver notice of storage to the owner of the  
18 vehicle.

19           D. E. The notice of storage shall include all of the following  
20 information:

21           1. A statement that the vehicle was impounded.  
22           2. The name, address and telephone number of the impounding agency  
23 providing the notice.

24           3. The name, address and telephone number of the department IMPOUNDING  
25 AGENCY OR JUSTICE COURT that will provide the poststorage hearing.

26           4. The location of the place of storage and a description of the  
27 vehicle, including, if available, the manufacturer, model, license plate  
28 number and mileage of the vehicle.

29           5. A statement that in order to receive a poststorage hearing the  
30 owner, the spouse of the owner, the owner's agent or THE person identified  
31 in the department's record as having an interest in the vehicle shall  
32 contact, WITHIN TEN DAYS AFTER THE DATE ON THE NOTICE, REQUEST A POSTSTORAGE  
33 HEARING BY CONTACTING the department IMPOUNDING AGENCY in person, OR in  
34 writing or by telephone within ten days after the date on the notice and  
35 request a poststorage hearing OR BY FILING A REQUEST WITH THE JUSTICE COURT  
36 AND PAYING A FEE EQUAL TO THE FEE ESTABLISHED PURSUANT TO SECTION 22-281 FOR  
37 A SMALL CLAIMS ANSWER.

38           6. A STATEMENT THAT IF THE IMPOUNDING AGENCY DOES NOT PROVIDE THE  
39 OPPORTUNITY FOR A POSTSTORAGE HEARING, THE OWNER, THE SPOUSE OF THE OWNER,  
40 THE OWNER'S AGENT OR ANY PERSON IDENTIFIED IN THE DEPARTMENT'S RECORD AS  
41 HAVING AN INTEREST IN THE VEHICLE MAY REQUEST THAT THE POSTSTORAGE HEARING  
42 BE CONDUCTED BY A JUSTICE COURT IN THE IMPOUNDING AGENCY'S JURISDICTION OR  
43 THE JURISDICTION IN WHICH THE OWNER, THE SPOUSE OF THE OWNER, THE OWNER'S  
44 AGENT OR THE PERSON IDENTIFIED IN THE DEPARTMENT'S RECORD AS HAVING AN  
45 INTEREST IN THE VEHICLE RESIDES.

1 E. F. The poststorage hearing shall be conducted by the department  
2 IMPOUNDING AGENCY OR JUSTICE COURT within two FIVE working days after receipt  
3 of the request.

4 F. G. Failure of the owner, the spouse of the owner or other person  
5 or the other person's agent to request or to attend a scheduled hearing  
6 satisfies the poststorage hearing requirement.

7 G. H. The impounding agency employing the person who directed the  
8 storage is responsible for the costs incurred for towing and storage if it  
9 is determined in the poststorage hearing that reasonable grounds for the  
10 impoundment and storage are not established.

APPROVED BY THE GOVERNOR MAY 14, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2003.

Passed the House March 4, 2003

Passed the Senate May 5, 2003

by the following vote: 60 Ayes,

by the following vote: 27 Ayes,

0 Nays, 0 Not Voting

1 Nays, 2 Not Voting

Jake Flake  
Speaker of the House

Ken Bennett  
President of the Senate

Norman L. Moore  
Chief Clerk of the House

Charmine Bellinger  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2299

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

May 8, 2003,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Jake Flake  
Speaker of the House  
Sperman L. Moore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8 day of May, 2003

at 1:40 o'clock P. M.

Sandra Gandy  
Secretary to the Governor

Approved this 14 day of

May, 2003,

at 4:00 o'clock P. M.

Jon R. Noriega  
Governor of Arizona

H.B. 2299

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15 day of May, 2003,

at 1:55 o'clock P. M.

Janice L. Brewer  
Secretary of State